

A. G. Contract No. KR921361TRN
ECS File: JPA 92-71
Project: M-304-3(8)P
Fund: 3043 MA SUR S S284 01C
Section: Bell Road, Beardsley Canal
to Grand Avenue

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF SURPRISE

THIS AGREEMENT is entered into 23 July, 1992,
pursuant to Arizona Revised Statutes, Sections 11-951 through
11-954, as amended, between the STATE OF ARIZONA, acting by and
through its DEPARTMENT OF TRANSPORTATION (the "State") and the
CITY OF SURPRISE, acting by and through its CITY COUNCIL
("City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes
Section 28-108 to enter into this agreement and has by
resolution, a copy of which is attached hereto and made a part
hereof, resolved to enter into this agreement and has delegated
to the undersigned the authority to execute this agreement on
behalf of the State.

2. The City is empowered by Arizona Revised Statutes
Section 48-572 to enter into this agreement and has by
resolution, a copy of which is attached hereto and made a part
hereof, resolved to enter into this agreement and has
authorized the undersigned to execute this agreement on behalf
of the City.

3. Congress has authorized appropriations for, but not
limited to, the construction of streets and primary, feeder and
farm-to-market roads; the replacement of bridges; the
elimination of roadside obstacles; and the application of
pavement markings.

4. Such project within the boundary of the City has been
selected by the City; the field survey of the project has been
completed; and the plans, estimates and specifications have
been prepared and, as required, submitted to the Federal
Highway Administration ("FHWA") for approval.

NO. <u>16915</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>07/23/92</u>
<u>Richard Mahoney</u> Secretary of State
By <u>[Signature]</u>

5. The only interest of the State in the project is in the acquisition of federal funds for the use and benefit of the City by reason of federal law and regulations under which funds for the project are authorized to be expended.

6. The work embraced by this agreement and the estimated cost are as follows: OVERLAY AND STRIPING

Estimated Total Project Cost	\$ 316,960.00
Federal Aid Funds @ 94.3%	298,893.00
Two percent surcharge	6,339.00
City of Surprise Funds	\$ 24,406.00*

* This includes a two percent (2%) surcharge per ADOT Local Government Engineer memo of October 1991.

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction.

a. If such project is approved for construction by FHWA and the funds are available for construction of the project, the State with the aid and consent of FHWA will proceed to advertise for, receive and open bids, and subject to the concurrence of FHWA and the City, award the contract, enter into a contract with a firm to whom the award is made for the construction of the project, such project to be performed, completed, accepted and paid for in accordance with the requirements of the Standard Specifications for Road and Bridge Construction of the Highways Division, Arizona Department of Transportation. Further, the State will enter into a Project Agreement with FHWA covering the work embraced in said contract or in this agreement and will request the maximum federal funds available.

b. The State will furnish City with a copy of the proposed Project Agreement to be entered into by the State and FHWA and any Railroad Company Agreement necessary for the full completion of this project. Upon approval of the terms and conditions of the Project Agreement and any State-Railroad Company Agreement by the City, the agreements shall be incorporated in and made a part of this agreement by reference and shall have the same force and effect as though fully written herein. Further, the City is bound by all the terms of any State-Railroad Company Agreement and will reimburse the State for the amount contracted for by and between the Railroad Company and the State acting as agent for the City.

c. Should some unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this agreement, the State shall not be obligated to incur any expenditure in excess of the amount of City's deposit unless and until so authorized in writing by the City.

2. Prior to the solicitation of bids, the City shall deposit with State funds in the amount determined by the State to be necessary to match federal funds in the ratio required.

Upon completion of the construction contract, the State shall return to the City any part of the funds deposited by City remaining after City's pro rata share of the cost, as finally fixed and determined by FHWA, has been paid.

3. The City shall acquire, without cost to the State, the necessary right-of-way and hereby certifies that all necessary rights-of-way have been acquired.

4. The City shall remove from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the roadway, and hereby certifies that all obstructions and encroachments have been removed therefrom.

5. The City shall not permit or allow any encroachments, except those authorized by permit, upon, or private use of, the right of way. In the event of any unauthorized encroachment or improper use, the City shall take all necessary steps to remove or prevent any such encroachment or use; failing in which the State shall have the right to proceed with the removal or prevention thereof, the cost of such removal or prevention to be borne by the City.

6. Upon completion of construction, the City shall provide for, at its own cost and as an annual item in its budget, proper maintenance, including, but not limited to, traffic signals, signs, islands, curbs and markings necessary for the purpose of regulating, warning and guiding traffic.

7. The City shall mark and sign school crossings and railway-highway grade crossings in accordance with the requirements of the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways.

8. By such regulation as it may by ordinance provide, the City shall regulate parking and not permit vehicles to be left on the street in any manner other than at and parallel with the curb and to restrict parking so as to prevent conflicts with moving traffic at intersections and at such other locations as necessary.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. City assumes full responsibility for the design, plans and specifications, the engineering in connection therewith, and the construction of the improvements contemplated. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation or attorneys' fees.

2. The cost of the work covered by this agreement is to be borne by FHWA and City, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this agreement. Therefore, City agrees to furnish and provide State with City funds in an amount equal to the difference between the total cost of the work provided for in this agreement and the amount of federal aid received.

3. This agreement shall remain in force and effect until completion of the work; provided, however, that any provisions in this agreement for maintenance shall be perpetual.

4. This agreement shall become effective upon filing with the Secretary of State.

5. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

6. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

7. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

8. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007

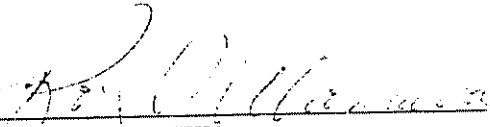
City of Surprise
City Manager
12604 Sante Fe Drive
Surprise, AZ 85374


9. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

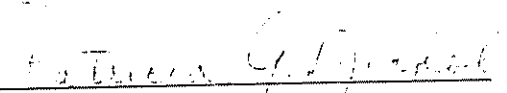
CITY OF SURPRISE

STATE OF ARIZONA
Department of Transportation

By 
ROY VILLANUEVA
Mayor

By 
ROBERT P. MICKELSON
Deputy State Engineer

ATTEST

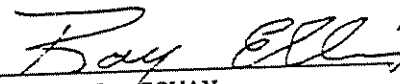
By 
PAT NICHOLS
City Clerk

JPA 92-71

RESOLUTION

BE IT RESOLVED on this 8th day of June 1992, that I, CHARLES E. COWAN, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with City of Surprise for the purpose of defining responsibilities for the design, construction and maintenance of improvements to Bell Road from Beardsley Canal to Grand Avenue.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Deputy State Engineer for approval and execution.


By CHARLES E. COWAN
Director

RESOLUTION NO. 92-27

A RESOLUTION OF THE CITY OF SURPRISE APPROVING THE ENTRY OF AN INTERGOVERNMENTAL AGREEMENT WITH THE THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR (JPA-92-71) CONSTRUCTION OF PAVING BELL ROAD BETWEEN GRAND AVENUE AND THE BEARDSLEY CANAL, AUTHORIZING THE EXPENDITURE OF MUNICIPAL FUNDS AND DIRECTING THE MAYOR TO EXECUTE SAID AGREEMENT

WHEREAS, the City has taken steps to prepare for construction of paving Bell Road within the City west of Grand Avenue and east of Beardsley Canal, and

WHEREAS, in order to obtain federal assistance monies regarding the project, it is necessary that the City provide matiching funds in the amount of \$24,406.00, and

WHEREAS, the Arizona Department of Transportation is willing to assist the City in the construction provided it recovers the cost thereof, estimated at \$24,406.00.

NOW, THEREFORE, BE IT RESOLVED approving the entry of an Intergovernmental Agreement with the Arizona Department of Transportation for certain services in connection with certain services in connection with the construction of paving improvements to Bell Road between Grand Avenue and Beardsley Canal and authorizing the payment of \$24,406.00 to the Arizona Department of Transportation as the estimated cost of performing the work in connection with the State's contractual agreement.

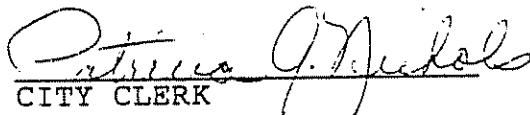
BE IT FURTHER RESOLVED authorizing and directing the Mayor and the City Clerk to execute the Intergovernmental Agreement on

behalf of the City.

PASSED AND ADOPTED by the Mayor and Common Council of the
City of Surprise, Arizona, this 2nd day of July,
1992.


MAYOR

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY

JPA 92-71

APPROVAL OF THE SURPRISE CITY ATTORNEY

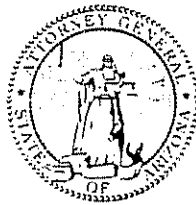
I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION and the CITY OF SURPRISE and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

DATED this _____ day of July, 1992.



City Attorney

1979j



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

GRANT WOODS
ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007

MAIN PHONE : 542-5025
TELECOPIER : 542-4085

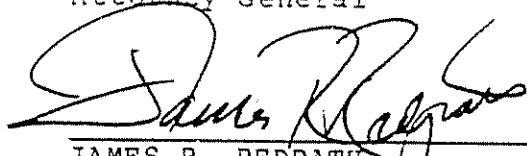
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A. G. Contract No. KR92-1361-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. §11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 20th day of July, 1992.

GRANT WOODS
Attorney General



JAMES R. REDPATH
Assistant Attorney General
Transportation Section

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